THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Special Appeal No. 100 of 2004 (Defective).

1. State of Uttaranchal through Secretary, Public Works Department, Uttaranchal Dehradun.
2. Engineer-in-Chief, Public Works Department, Uttaranchal.
3. Chief Engineer, Public Works Department, Kumaon Region, Almora.

...Appellants

Vs.

1. Dev Singh S/o Bahadur Singh.
2. Maha Singh S/o Sri Diwan Singh.
3. Ramesh Singh S/o Sri Lal Singh.
4. Bishan Singh S/o Sri Udai Singh.
5. Prem Ballabh S/o Sri Hari Dutt.
6. Jagdish Chandra S/o Sri Gopal Singh.
7. Chandra Ballabh S/o Sri Nand Ram.
8. Bhaw Dev S/o Sri Durga Datt.
9. Radhey Shyam S/o Sri Chinta Mani.
10. Khima Nand S/o Sri Daya Ram.
11. Sundar Singh S/o Sri Trilok Singh.
12. Churamani S/o Sri Beni Ram.
13. Bala Dutt S/o Sri Ganga Dutt.
14. Reva Dhar S/o Sri Hira Lal.
15. Krishna Nand S/o Sri Mani Ram.
16. Jai Dutt S/o Sri Mani Ram.
17. Trilok Mani S/o Sri Jai Datt.
18. Om Dutt S/o Sri Kashi Datt.
19. Devi Dutt S/o Sri Ganga Dutt.
20. Devi Datt S/o Sri Durga Datt.
21. Keshav Datt S/o Sri Durga Dutt.
22. Amar Singh S/o Joga Singh.
23. Kharag Singh S/o Sri Singh.
24. Diwan Singh S/o Sri A.N. Singh.
25. Jagat Singh S/o A.S. Singh.
26. Khima Nand S/o Sri Tika Ram.
27. Jagat Singh S/o Sri Dharam Singh.
28. Lok Singh S/o Sri Harak Singh.
29. Kunwar Singh S/o Sri Madho Singh.
30. Keshav Datt S/o Sri Durga Datt.
31. Amar Singh S/o Sri Umed Singh.
32. Bachi Singh S/o Sri Khushal Singh.
33. Tula Ram S/o Sri Durga Datt.
34. Mahesh Chandra S/o Sri Hari Datt.
35. Uma Pati S/o Sri Tara Datt.
36. Prahalad Singh S/o Sri Jagan Singh.
37. Ram Singh. S/o Sri Pratap Singh.
38. Dinesh Chandra S/o Sri Nityanand.
39. Beni Ram S/o Sri Digar Das.
40. Dharma Nand S/o Sri Krishna Nand.

41.Prahalad Sing S/o Sri Bhim Singh.
42.Baldev S/o Sri Ishwari Datt.
43.Ghan Shyam S/o Sri Tika Ram.
44.Shyam Singh S/o Sri Mohan Singh.
45.Puran Chandra Bhatt S/o Sri Johari Dutt Bhatt.
46.Gumani Datt S/o Sri Khima Nand.
47.Hira Mani S/o Sri lila Dhar.
48.Lila Dhar S/o Sri Krishna Nand.
49.Girdhari Dutt S/o Sri Keshav Dutt.
50.Keshav Dutt S/o Sri Daulat Ram.
51.Urba Datt S/o Sri Jai Datt.
52.Ganga Datt S/o Sri Tika Ram.
53.Bhawan Singh S/o Sri..... Singh.

Petitioner no. 1 to 39 are working on the post of Beldar and others are working on the post of Mate in the provincial Division of Public Works Department, Pithoragarh.

...Respondents.

Sri K.P. Upadhyay, learned Standing Counsel for the appellants-State.
Sri S.S. Yadav, Learned Counsel for the respondents.

Coram: Hon'ble P.C. Verma, J.
Hon'ble B.S. Verma, J.

Date July 12, 2006
Delay Condonation Application dated 7-12-2004

This Special Appeal has been preferred by the appellants State of Uttaranchal being aggrieved by the judgment and order dated 22-10-2000 passed by the learned Single Judge in Writ Petition No. 110 of 2003(SS) Dev Singh and 52 others Vs. State of Uttaranchal and 3 others whereby the orders passed by the respondents canceling the regularization of the petitioners were quashed holding that the same were passed without affording any opportunity to the petitioners, who are respondents in the case at hand. This Special Appeal has been filed on 7-12-2004, therefore, there is inordinate delay in filing the appeal.

The State-appellants have filed application for condonation of delay in filing the special appeal. We have heard the submissions of the learned Standing Counsel appearing on behalf of the appellants and perused the material on record including the affidavit filed along with delay condonation application.

At the outset it may be noted that the certified copy of the order filed along with memo of appeal goes to show that the appellants applied for obtaining the certified copy of 7-11-2003 and the copy was delivered to the applicants-appellants on 11-11-2003. In the memo of appeal, the stamp reporter of the Court has endorsed that the limitation had expired on 22-10-2003. Thus from a bare perusal it comes out that there has been delay of about 14 months in filing the appeal. Now, it has to be examined as to in what manner the delay in filing the appeal has been explained by the State as per averments made in the affidavit. It may also be noted that that the sanction to file Special Appeal was given to State by the Law Department vide letter dated 21-8-2004 as is evident from the Annexure 2 appended to the affidavit filed by the State.

It is admitted to the deponent Raj Kumar, Assistant Engineer of the respondents, that the sanction of the Government was received in his office in the month of September 2004. Even then, when it was well within the knowledge of the State that the certified copy of the order was obtained as back as on 11-11-2003, the respondents had not chosen to take the matter seriously and to file the appeal without further delay after the sanction had been received in the office of the deponent in September, 2004. Since the State is the litigating party in the present appeal, therefore, it may be taken that some more time if occupied in obtaining sanction and completing other formalities, therefore, after ignoring the delay till the date of sanction granted by the Law Department, it appears that the department concerned was not serious to take prompt steps to get the special filed without further delay. Nothing has been said in the affidavit filed by the Assistant Engineer regarding the delay from the date of sanction received in his office till the actual date of filing of appeal before the Court.

Having taken into account the facts and circumstances of the case and after giving our anxious thought to the entire facts narrated regarding the delay on the part of the State, we are not inclined to hold that it is fit case for condoning the delay. No ground is made out to condone the delay. The application for condonation of delay is hereby rejected.

Accordingly, the special appeal is dismissed as barred by limitation. No order as to costs.

(B.S. Verma,J.) **(P.C.Verma, J.)**

RCP